



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

EPA-R09-OAR-2015-0552; FRL-9936-70-Region 9

Approval of California Air Plan Revisions, San Joaquin Valley

Unified Air Pollution Control District and South Coast Air

Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) and South Coast Air Quality Management District (SCAQMD) portions of the California State Implementation Plan (SIP). These revisions concern emissions of oxides of nitrogen (NO_x) from fan-driven natural gas-fired central furnaces for residences and businesses. We are proposing to approve local rules to regulate these emission sources under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by [**Insert date 30 days after the date of publication in the Federal Register**].

ADDRESSES: Submit comments, identified by docket ID number EPA-

R09-OAR-2015-0552, by one of the following methods:

1. *Federal eRulemaking Portal*: www.regulations.gov. Follow the on-line instructions.
2. *E-mail*: steckel.andrew@epa.gov.
3. *Mail or deliver*: Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Instructions: Once submitted, comments cannot be edited or withdrawn. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. If you need to include CBI as part of your comment, please visit <http://www.epa.gov/dockets/comments.html> for further instructions. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. For the full EPA public comment policy and general guidance on making effective comments, please visit <http://www.epa.gov/dockets/comments.html>.

Docket: Generally, documents in the docket for this action are available electronically at www.regulations.gov or in hard copy

at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at www.regulations.gov, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Kevin Gong, EPA Region IX, (415) 942 3073, Gong.Kevin@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us" and "our" refer to the EPA.

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I. The State's Submittal.

A. *What rules did the State submit?*

Table 1 lists the rules addressed by this proposal with the dates that they were adopted by the local air agency/agencies and submitted by the California Air Resources Board.

Table 1 - Submitted Rules

Local Agency	Rule #	Rule Title	Amended	Submitted
SJVUAPCD	4905	Natural-Gas-Fired, Fan-Type Central Furnaces	01/22/15	04/07/15
SCAQMD	1111	Reduction of NOx Emissions From Natural-Gas-Fired, Fan-Type Central Furnaces	09/05/14	04/07/15

On April 30, 2015, the EPA determined that the submittal for SJVUAPCD 4905 and SCAQMD 1111 met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. *Are there other versions of these rules?*

We approved a previous version of Rule 4905 into the SIP on May 30, 2007 in 72 FR 29886 and a previous version of Rule 1111

August 4, 2010 in 75 FR 46845.

C. What is the purpose of the submitted rule revisions?

NOx helps produce ground-level ozone, smog and fine particulate matter (PM_{2.5}), which harm human health and the environment. Section 110(a) of the CAA requires States to submit regulations that control NOx emissions. SJVUAPCD Rule 4905 and SCAQMD Rule 1111 are point-of-sale rules for fan-driven natural gas-fired furnaces. The most recent revisions to Rule 4905 reduced the emission limits for various furnace types to the same limits set in the SIP-approved version of Rule 1111. The most recent revisions to Rule 1111 briefly extended the compliance deadline for one type of furnace. The revisions to both Rule 4905 and Rule 1111 also added a fee option for manufacturers of furnaces who produce and sell furnaces not meeting the new limits within the first three years of compliance. The EPA's technical support documents (TSDs) have more information about these rules.

II. The EPA's Evaluation and Action.

A. How is The EPA evaluating the rules?

SIP rules must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA

requirements (see CAA section 110(1)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

The SIP must implement all reasonably available control measures (RACM), including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology (RACT), as expeditiously as practicable, in ozone nonattainment areas classified Moderate and above (see CAA section 172(c)(1), 40 CFR 51.912(d) and 51.1112(c)). In addition, the SIP must require RACT for all major sources of NO_x in ozone nonattainment areas classified as Moderate or above (see CAA section 182(b)(2) and (f); 40 CFR 51.912(a) and 51.1112(a)(1)). SJVUAPCD and SCAQMD both regulate ozone nonattainment areas classified as Extreme for the 1997 and 2008 8-hour standards (40 CFR 81.305). SJVUAPCD Rule 4905 and SCAQMD Rule 1111 regulate area sources that are too small to exceed the major source threshold of 10 tons per year for Extreme ozone nonattainment areas and are therefore not subject to major source ozone RACT requirements under CAA section 182(b)(2) and (f). Nonetheless, the SIP must implement all RACM/RACT for NO_x

necessary to demonstrate attainment as expeditiously as practicable and to meet any reasonable further progress (RFP) requirements (see CAA section 172(c)(1), 40 CFR 51.912(d) and 51.1112(c)). A RACM/RACT evaluation is generally performed in context of a broader plan.

The SIP must also implement RACM, including RACT, as expeditiously as possible in PM_{2.5} nonattainment areas classified as Moderate (see CAA sections 172(c)(1) and 189(a)(1)(C)). SJVUAPCD and SCAQMD both regulate PM_{2.5} nonattainment areas classified as Moderate for the 2006 24-hour PM_{2.5} standard (40 CFR 81.305). A RACM/RACT evaluation is generally performed in context of a broader plan.

SIP rules must implement Best Available Control Measures (BACM), including Best Available Control Technology (BACT), in PM_{2.5} nonattainment areas classified as Serious or above (see CAA section 189(b)(1)(B)). SJVUAPCD regulates a PM_{2.5} nonattainment area classified as Serious for the 1997 PM_{2.5} standard (40 CFR 81.305). A BACM/BACT evaluation is generally performed in context of a broader plan.

Guidance and policy documents that we use to evaluate enforceability, revision/relaxation and rule stringency requirements include the following:

1. "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).
4. "State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule," (the NOx Supplement), 57 FR 55620, November 25, 1992.
5. "Improving Air Quality with Economic Incentive Programs," EPA, January 2001 (EPA-452/R-01-001).

B. *Do the rules meet the evaluation criteria?*

We believe these rules are consistent with CAA requirements and relevant guidance regarding enforceability, stringency and SIP revisions. The TSDs have more information on our evaluation.

C. *Public comment and proposed action.*

As authorized in section 110(k)(3) of the Act, the EPA

proposes to fully approve the submitted rules because we believe they fulfill all relevant requirements. We will accept comments from the public on this proposal until [**Insert date 30 days after date of publication in the Federal Register**]. Unless we receive convincing new information during the comment period, we intend to publish a final approval action that will incorporate these rules into the federally enforceable SIP. While we are proposing to fully approve the rules, the TSDs discuss why fee provisions in these rules limit the creditable emission reductions from these rules in some CAA planning actions.

III. Incorporation by Reference.

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the SJVUAPCD and SCAQMD rules as described in Table 1 of this notice. The EPA has made, and will continue to make, these documents available electronically through www.regulations.gov and in hard copy at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a

SIP submission that complies with the provisions of the Act and applicable Federal regulations (CAA section 110(k); 40 CFR 52.02(a)). Thus, in reviewing SIP submissions, the EPA's role is to approve State choices, provided that they meet the criteria of the Act. Accordingly, this proposed action merely proposes to approve State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Intergovernmental relations,
Nitrogen dioxide, Ozone, Particulate matter, Reporting and
recordkeeping requirements.

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Dated: October 19, 2015.

Jared Blumenfeld, Regional Administrator,
Region IX.

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